

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

EDWARD L. YOUNG,

Petitioner,

: Case No. 2:24-cv-1564

- vs -

District Judge Michael H. Watson
Magistrate Judge Michael R. Merz

WILLIAM COOL, WARDEN, Ross
Correctional Institution,

:

Respondent.

SUPPLEMENTAL REPORT AND RECOMMENDATIONS

This habeas corpus case, brought *pro se* by Petitioner Edward Young pursuant to 28 U.S.C. § 2254, is before the Court on Petitioner's Objections (ECF No. 18) to the Magistrate Judge's Report and Recommendations recommending dismissal of the Petition ("Report," ECF No. 15). District Judge Watson has recommitted the case to the undersigned for consideration of the Objections (ECF No. 19).

Petitioner makes no objection to the substance of the Report. Instead, he claims the Report was filed before he had time to file a reply (ECF No. 18, PageID 764). The chronology of dates for a reply, documented by reference to the corroborating docket number, is as set forth below:

April 5, 2024 The Court orders Respondent to answer the Petition and sets a reply date of twenty-one days after the answer is filed (ECF No. 2).

September 13, 2024 Noting that the answer had been filed the day before, the Court notified Petitioner his reply was due October 7, 2024 (ECF No. 10).

October 2, 2024 Petitioner notifies the Court that service of the State Court Record was fumbled by the Respondent and seeks an extension of the reply deadline until December 31, 2024 (ECF No. 11).

October 2, 2024 The Magistrate Judge orders the Respondent to correct its error and promises a ruling on extending the reply deadline after Respondent certifies service of the correct State Court Record on Petitioner (ECF No. 12). Note this Order was filed the same day Petitioner brought the problem to the Court's attention.

October 7, 2024 Respondent certifies correction of the record (ECF No. 13)

October 7, 2024 The Court grants Petitioner an extended reply deadline of December 1, 2024 (ECF No. 14). The next day the Clerk annotates the docket to show mailing of ECF No. 14 to Petitioner. That mail has never been returned by the Postal Service, nor has any other mail sent from the Court been returned.

December 19, 2024 More than two weeks past the extended deadline and having received no reply from Petitioner, the Magistrate Judge files the Report (ECF No. 15).

In sum, Petitioner's objection that he was not given sufficient time to file a reply is not well taken. He was initially given the three weeks that is standard in this Court. On his motion, the error in service of the State Court Record was corrected and he was given an additional seventy-three days.¹ This Supplemental Report is being filed after another twenty-nine days and Petitioner has still not filed a reply nor has he made any substantive objections to the Report.

Conclusion

Having reviewed the case upon the District Judge's committal, the Magistrate Judge

¹ Including the nineteen days the Court waited to see if Petitioner had timely filed by December 1, 2024, by depositing the reply in the prison mailing system.

recommends that Petitioner's Objections be overruled and that the Petition be dismissed with prejudice. Because reasonable jurists would not disagree with this conclusion, it is also recommended that Petitioner be denied a certificate of appealability and that the Court certify to the Sixth Circuit that any appeal would be objectively frivolous and should not be permitted to proceed *in forma pauperis*.

January 17, 2025.

s/ *Michael R. Merz*
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Because this document is being served by mail, three days are added under Fed.R.Civ.P. 6, but service is complete when the document is mailed, not when it is received. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. #